

**DECISION**

suppose 9/10/10  
**THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D.C. 20548**

**FILE:** B-216685**DATE:** October 23, 1984**MATTER OF:** MTR, Inc.**DIGEST:**

Protest is denied summarily where protester alleges only that it should have received award as the low responsive, responsible offeror and submits documentation showing that agency rejected its bid after concluding, on the basis of substantial evidence, that bid was obviously mistaken. A bid must be rejected under such circumstances even though the bidder refuses to admit the mistake.

MTR, Inc. protests award under invitation for bids DAAA22-84-B-0161 issued by Watervliet Arsenal, Department of the Army. According to the protester, it should have received award because it was the low responsive, responsible bidder.

We deny the protest summarily because the protest, on its face, establishes no basis on which it could be concluded that the contracting activity took any improper action. Documentation submitted with the protest shows that the contracting officer refused to consider MTR's bid, which was out of line with the government estimate and with other bids received, because he concluded that the bid was mistaken. The record shows that, following a meeting with MTR to discuss a possible mistake, the contracting officer determined the bid was grossly underestimated because, as he subsequently wrote MTR:

"1. In the area of excavating, it is apparent that neither the depth of the concrete nor the multiple layers of reinforcing steel were considered.

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"2. The cost for concrete is obviously that for a normal mixture and not for the special mixture required.

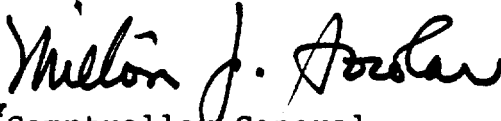
"3. The estimate fails to include clean-up, dumping and barricade costs as well as the costs for raising manholes, gravel overcut and saw cutting.

"4. No overhead costs were indicated."

Our examination of two subcontractor quotations MTR submitted with its bid discloses no apparent contradiction between them and the contracting officer's findings.

Although MTR refuses to acknowledge an error, and believes that it therefore should receive award, the rule is well settled that a bid must be rejected, even though responsive on its face, where it is apparent that a mistake has been made, and despite the bidder's denial of mistake. Mullins Protective Services, Inc., B-208674, Dec. 21, 1982, 82-2 CPD ¶ 561. An exception may be made if it can be clearly shown that an offeror's intended bid would have been low had the mistake not been made. Bruce-Andersen Co., Inc., 61 Comp. Gen. 30 (1981), 81-2 CPD ¶ 310. MTR, however, does not challenge the Army on this basis or indicate in its protest how MTR believes the contracting officer's conclusions, as indicated in the documentation that MTR submitted, are in error.

The protest is denied.

  
Acting Comptroller General  
of the United States